



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/154204

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 17, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on March 18, 2014, at Milwaukee, Wisconsin. Petitioner's initial appeal was filed on December 17, 2013. A hearing was scheduled for January 14, 2014. Petitioner did not appear for the hearing. On January 15, 2014, DHA issued a decision dismissing the Petitioner's appeal based on abandonment of the appeal. On February 14, 2014, the Petitioner requested a rehearing on the grounds that she had a medical emergency on January 14, 2014. On February 27, 2014, the Petitioner's rehearing request was granted.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits effective December 1, 2013.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

█

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Pang Xiong  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. Petitioner and ■ have a minor child ■. In December, 2012, the Petitioner was granted sole legal custody and primary physical placement of ■ by Milwaukee County Circuit Court order.
3. On June 13, 2013, ■ was granted sole custody and primary placement of ■ by Milwaukee County Circuit Court order. ■ was added to ■'s FoodShare group in June, 2013 and removed from the Petitioner's case.
4. On August 19, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she would receive FS benefits of \$526/month effective September 1, 2013 for a household of two that does not include ■.
5. On September 16, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she will receive Transitional FS benefits of \$526/month until October, 2013.
6. On October 12, 2013, the agency issued a Notice of Decision to the Petitioner informing her that her Transitional FS benefits would end on December 1, 2013.
7. On November 20, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she will receive \$347/month effective December 1, 2013 for a household of two that does not include ■.
8. ■ resides with her paternal grandmother and aunt. She does not reside with the Petitioner.

### **DISCUSSION**

An individual cannot be a member of more than one FS group. FS Handbook (FSH) § 3.4.1. Children are included in the household where they reside when they are under the care and control of a parent. If the residence of a child is questionable, court documents can be used to determine if there is a primary caretaker designated. FHS § 3.2.1.1.

In this case, the Petitioner questions the validity of the court order of June 13, 2013 granting sole custody and physical placement of ■ to ■. She asserts that it is not valid and therefore the court order of December, 2012 giving her sole custody and physical placement of ■ should be used by the agency to determine which FS group ■ should be placed in. The Petitioner testified that ■ is not residing in the Petitioner's home but is residing with her paternal grandmother. She does not know if ■ is living with his mother and ■.

I have no reason to question the court order of June 13, 2013. It is signed and sworn and was filed with Milwaukee County Circuit Court on June 13, 2013. Based on the court order, the agency properly placed ■ in ■'s FS group.

I reviewed the FS budgets allotting \$347/month to the Petitioner. She is receiving the maximum allotment for a household of two. I find no errors in the agency's determination.

### **CONCLUSIONS OF LAW**

The agency properly reduced the Petitioner's FS benefits effective December 1, 2013.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

## REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

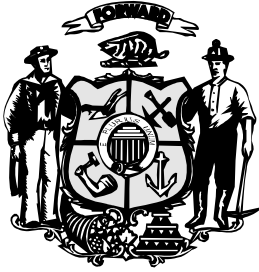
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 28th day of March, 2014

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 28, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability